

CALIFORNIA STATE PERSONNEL BOARD MEETING¹

Public Session Location - 801 Capitol Mall
Sacramento, California, Room 150
Teleconference – 320 West 4th Street
Los Angeles, CA, Suite 620

Closed Session Location - 801 Capitol Mall
Sacramento, California Room 141
Teleconference - 320 West 4th Street
Los Angeles, CA, Suite 620

FULL BOARD MEETING MINUTES²

NOVEMBER 3, 2004

All agenda items listed for the October 19, 2004 Board Meeting, which was canceled, will be considered at this meeting. A copy of the October 19, 2004 Agenda is available at our website, <http://www.spb.ca.gov>.

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

1. ROLL CALL

Members Present:

William Elkins, President
Ron Alvarado, Vice President
Maeley Tom, Member
Anne Sheehan, Member

2. REPORT OF THE EXECUTIVE OFFICER - Floyd Shimomura, State Personnel Board

¹ Pursuant to Government Code section 11123, a teleconference was conducted for this meeting at 320 W. 4th Street, Los Angeles, CA.

² The Minutes for the Board can be obtained at the following Internet address:
<http://www.spb.ca.gov/calendar.htm>

The Board was advised on the following:

- A. The Department of Personnel Administration (DPA) announced in mid-October that it was closing its State Training Center as of January 1, 2005. The State Personnel Board (SPB) has hired George Steinert from the DPA's training program to help expand its own program. The SPB and Cooperative Personnel Services (CPS) are planning on providing additional training classes to fill some of the expected need.
- B. The Secretary of State Office audit is nearing completion and we hope to have a final version by the Board's December meeting.
- C. In order to maintain open lines of communication, the Executive Officer attended both the October meeting of state civil rights officers (CCROC) and the meeting of personnel officers from larger agencies (Ad Hoc).
- D. The SPB's Annual Census of Employees In the Civil Service for the 2002-2003 year was returned by the State and Consumer Services Agency as being untimely. An updated version which will include both 2002-2003 as well as 2003 -2004 will be soon completed to get back into compliance.

3. REPORT OF THE CHIEF COUNSEL – Elise Rose

The Chief Counsel reported on the following:

Litigation:

- A. Connerly v. SPB - No date yet on a hearing for new petition for writ of mandate filed by Connerly to compel state agencies to pay attorney's fees judgment.
- B. Roe v. SPB - Superior court has issued writ after appellate court decision compelling Board to conduct proceedings to determine amount of back pay due under appellate court decision order and make a finding whether dismissal was for good cause.
- C. Beck v. SPB - Beck has filed a second petition for writ to compel CHP to comply with Board's order, affirmed by

the superior court, to reinstate her. CHP had sent Beck for further fitness for duty examination and has refused to reinstate her based on results of that examination.

- D. California Attorneys, Administrative Law Judges and Hearing Officers (CASE) v. Department of Industrial Relations (DIR)/SPB - CASE has withdrawn its appeal from trial court order declining to compel DIR to disclose names of candidates on eligibility list.

Other:

At request of the California Department of Corrections, SPB Staff Attorney, Bruce Monfross, is conducting a seminar on the Whistleblower Protection Act.

Administrative Law Judge (ALJ) Conference - all SPB ALJs are in town for their annual conference.

Elise Rose, Chief Counsel, attended meeting on October 30, 2004, of all chief counsels of departments under the State and Consumer Services Agency.

Willard Shank, former Board member of the Public Employment Relations Board, passed away on October 24, 2004. Prior to becoming Chief of the Civil Division of the Office of the Attorney General, Mr. Shank represented the State Personnel Board as a client.

4. NEW BUSINESS

No New Business

5. REPORT ON LEGISLATION

The Board was advised of the following:

- A. The Board was updated on status of the Equal Employment Opportunity (EEO) legislative proposal. The EEO language is a re-cast of last year's legislation, AB 2275 (Dymally), sponsored by the Board.

6. HEARING – ELIGIBILITY OF DISMISSED STATE EMPLOYEES TO TAKE EXAMINATIONS
State Personnel Board staff is proposing to amend Rule § 211, to comply with Assembly Bill (AB) 577, Statutes of 2003, Chapter 836 which enacted Government Code § 18941.

Persons Participating:

Daphne Baldwin, Staff Services Manager I, Policy Division, SPB

Daisy McKenzie, Manager, Examination Services, SPB

CLOSED SESSION OF THE STATE PERSONNEL BOARD

7. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, AND OTHER APPEALS
Deliberations to consider matter submitted at prior hearing.
[Government Code Sections 11126(d), 18653.]

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

8. ORAL ARGUMENT
Oral Argument in the matter of LEIJANE OGAWA, CASE NO. 03-2943 EA. Appeal from discrimination. Department of Transportation.

Persons Participating:

Daniel Muallem, Attorney, Department of Transportation, representing department

Catherine Kennedy, Attorney, California State Employees Association, representing appellant

CLOSED SESSION OF THE STATE PERSONNEL BOARD

9. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, AND OTHER APPEALS
Deliberations to consider matter submitted at prior hearing.
[Government Code Sections 11126(d), 18653.]

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

10. ORAL ARGUMENT

Oral Argument in the matter of ANN R. ABIERAS, CASE NO. 04-0531A AND EVELYN B. CORPUS, CASE NO. 04-0529A. Appeal from ten-percent reduction in salary for twelve months. Department of Developmental Services.

Persons Participating:

Barbara Farley, Labor Relations Specialist, Department of Developmental Services, representing department
Steven Bassoff, Attorney, representing appellants

CLOSED SESSION OF THE STATE PERSONNEL BOARD

11. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, AND OTHER APPEALS

Deliberations to consider matter submitted at prior hearing. [Government Code Sections 11126(d), 18653.]

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

12. ORAL ARGUMENT

Oral Argument in the matter of NICHOLAS COMAITES, CASE NO. 03-0062A AND PAUL WARD, CASE NO. 03-0332A. Appeal from official reprimand. Department of Corrections.

Persons Participating:

John Denvir, Staff Counsel, Department of Corrections, representing department
Wendell J. Llopis, Attorney at Law, representing appellant
Barry Bennett, Attorney at Law, Bennett & Sharpe, Inc., representing appellant

CLOSED SESSION OF THE STATE PERSONNEL BOARD

13. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, AND OTHER APPEALS

Deliberations to consider matter submitted at prior hearing. [Government Code Sections 11126(d), 18653.]

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

14. ORAL ARGUMENT

Oral Argument in the matter of VIRGINIA PARKER, CASE NO. 03-0325A. Appeal from demotion. Department of Corrections.

Persons Participating:

Dianne Robbins, Staff Counsel, Department of Corrections, representing department
Wendell J. Llopis, Attorney at Law, representing appellant

CLOSED SESSION OF THE STATE PERSONNEL BOARD

15. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, AND OTHER APPEALS

Deliberations to consider matter submitted at prior hearing.
[Government Code Sections 11126(d), 18653.]

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

16. ORAL ARGUMENT

Oral Argument in the matter of PEARLIE BLEDSOE-TOWNES, CASE NO. 03-2966A
Appeal from denial of request for reasonable accommodation. Department of Corrections.

Persons Participating:

Michael Skow, Staff Counsel III, Department of Corrections, representing department
Nirmal Deswal, Hearing Representative, California Correctional Peace Officers Association, representing appellant

CLOSED SESSION OF THE STATE PERSONNEL BOARD

17. DELIBERATION ON ADVERSE ACTIONS, DISCRIMINATION COMPLAINTS, AND OTHER PROPOSED DECISIONS SUBMITTED BY ADMINISTRATIVE LAW JUDGES

The Board deliberated and voted on matters submitted at prior hearings, on proposed decisions, petitions for rehearing, rejected decisions, remanded decisions, submitted decisions,

and other matters related to cases heard by the administrative law judges of the State Personnel Board or by the Board itself. [Government Code Sections 11126 (d), and 18653 (2).]

18. PENDING LITIGATION

As discussion of pending litigation in open session would be prejudicial, the Board conducted closed session conferences with legal counsel and received advice as necessary regarding pending litigation as listed in the agenda. [Government Code Sections 11126 (e)(1), 18653.]

19. RECOMMENDATIONS TO THE LEGISLATURE

The Board deliberated on recommendations to the Legislature as listed in the agenda. [Government Code Section 18653.]

20. RECOMMENDATIONS TO THE GOVERNOR

The Board deliberated on recommendations to the Governor as listed in the agenda. [Government Code Section 18653.]

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

21. DISCUSSION OF COMING BOARD MEETING SCHEDULE
OF NOVEMBER 16, 2004, IN SACRAMENTO

BOARD ACTIONS

22. ADOPTION OF THE STATE PERSONNEL BOARD
SUMMARY MINUTES OF OCTOBER 5, 2004

ACTION: Adopted on November 3, 2004

VOTE: Elkins, Alvarado, Sheehan (Tom not present to participate in vote) – Aye.

23. ACTION ON SUBMITTED ITEMS

(See Minutes Pages 36-37)

These items have been taken under submission by the State Personnel Board at a prior meeting and may be before the Board for a vote at this meeting. This list does not include evidentiary cases, as those cases are listed separately by category on this agenda under Evidentiary Cases.

24. EVIDENTIARY CASES

The Board Administrative Law Judges conducts Evidentiary hearings in appeals that include, but are not limited to, adverse actions, medical terminations, demotions, discrimination, reasonable accommodations, and whistleblower complaints.

On November 3, 2004, the Board adopted by majority vote (Elkins, Alvarado and Sheehan [Tom not present to participate in vote]), the following decisions presented by Elise Rose, Chief Counsel, State Personnel Board.

A. BOARD CASES SUBMITTED

These cases have been taken under submission by the State Personnel Board at a prior meeting and may be before the Board for a vote at this meeting.

DEBRA GREENE, CASE NO. 03-0621A

Appeal from dismissal

Motor Vehicle Field Representative

Department of Motor Vehicles

NO ACTION

MARTIN HERNANDEZ, CASE NO. 02-4449A

Appeal from demotion

Correctional Sergeant

Calipatria State prison – Imperial

Department of Corrections

ACTION: The Board adopted a non-precedential decision revoking the demotion and awarding back pay, interest and benefits.

CONNIE JAMES, CASE NO. 03-3136A

Appeal from 15-working-days suspension

Accounting Technician

Employment Development Department

ACTION: The Board adopted a non-precedential decision, sustaining the 15-working-days suspension.

CONNIE JOHNSON, CASE NO. 03-2620R

Appeal from 30-calendar-days suspension

Employment Program Representative

Employment Development Department

NO ACTION

JACQUELYN MCCARVER, CASE NO. 03-0669A

Appeal from demotion

Correctional Sergeant

Rainbow Conservation Center – Fallbrook

Department of Corrections

ACTION: The Board adopted a non-precedential decision, sustaining the demotion, but revoking the transfer.

DENNIS UYEDA, CASE NO. 03-2396A

Appeal from five-working-days suspension

Latent Print Analyst II

Department of Justice

NO ACTION

GARY WHALEY, CASE NO. 03-1420A

Appeal from discrimination

Employment Program Representative

Employment Development Department

NO ACTION

B. CASES PENDING

- Oral Arguments

These cases are on calendar to be argued at this meeting or to be considered by the Board in closed session based on written arguments submitted by the parties.

ANN R. ABIERAS, CASE NO. 04-0531A AND

EVELYN B. CORPUS, CASE NO. 04-0529A

Appeal from ten-percent reduction

in salary for twelve months

Psychiatric Technician Assistants

Department of Developmental Services

ACTION: Submitted.

NICHOLAS COMAITES, CASE NO. 03-0062A

Appeal from official reprimand

Correctional Counselor II

Department of Corrections AND

PAUL WARD, CASE NO.03-0332A

Appeal from official reprimand

Correctional Administrator

Department of Corrections

ACTION: Submitted

LEIJANE OGAWA, CASE NO. 03-2943EA

Appeal from discrimination

Office Assistant (General)

Department of Transportation

ACTION: The Board adopted the proposed decision dismissing the discrimination appeal as untimely.

VIRGINIA PARKER, CASE NO. 03-0325A

Appeal from demotion

Correctional Lieutenant

Ironwood State Prison – Blythe

Department of Corrections

ACTION: Submitted.

PEARLIE BLEDSOE-TOWNES, CASE NO. 03-2966A

Appeal from denial of request for reasonable

Accommodation

Correctional Sergeant

Central California Women's Facility – Chowchilla

Department of Corrections

ACTION: Submitted.

C. CHIEF COUNSEL RESOLUTIONS

GEORGE WOODS, CASE NO. 01-1908

Appeal from demotion

Chief Engineer I

California Institution for Women - Corona

Department of Corrections

NO ACTION

Court Remands

These cases have been remanded to the Board by the court for further Board action.

NONE

- Stipulations

These stipulations have been submitted to the Board for Board approval, pursuant to Government Code, section 18681.

NONE

D. ADMINISTRATIVE LAW JUDGE'S (ALJ) PROPOSED DECISIONS

- Proposed Decisions

These are ALJ proposed decisions submitted to the Board for the first time.

PATRICK BARBER, CASE NO. 04-0174

Appeal from dismissal

Youth Correctional Counselor

Department of Youth Authority

ACTION: Dismissal modified to 45-days suspension.

PATRICK BARBER, CASE NO. 04-1202

Appeal from dismissal

Youth Correctional Counselor

Department of Youth Authority

ACTION: The Board issued a special resolution adopting the proposed decision revoking the dismissal.

CONSTANCE BOLDEN, CASE NO. 04-0684

Appeal from dismissal

Correctional Counselor II - Supervisor

California Institution for Men – Chino

Department of Corrections

ACTION: Dismissal sustained.

JOHN A. CRUZ, CASE NO. 04-1376

Appeal from 60-calendar-days suspension

Automotive Equipment Operator I

Department of Veterans Affairs

ACTION: Administrative Law Judge's proposed decision rejected by Board. Board to decide case itself.

DARLENE DAWSON, CASE NO. 04-1155

Appeal from five-percent reduction in salary for 12-months

Psychiatric Technician Assistant

Department of Developmental Services

ACTION: Five-percent reduction in salary for 12 months modified to a formal reprimand.

EDWARD V. DEL RIO, CASE NO. 04-1189
Appeal From 45-work-days suspension
Caltrans Equipment Operator II
Department of Transportation
ACTION: 45-work-days suspension sustained.

DOUG HANSEN, CASE NO. 04-1663
Appeal from five-percent reduction
in salary for six months
Vocational Landscape Instructor
California Correctional Institution - Tehachapi
Department of Corrections
Department of Transportation
ACTION: five-percent reduction
in salary for six months sustained.

YOLANDA HARRIS, CASE NO. 04-1520
Appeal from five-percent reduction
in salary for twelve months
Correctional Counselor I
California Correctional Institution - Tehachapi
Department of Corrections
ACTION: Five-percent reduction
in salary for twelve months modified to five-percent
reduction in salary for six months.

JOE W. JORDAN, CASE NO. 04-0393
Appeal from dismissal
Youth Correctional Counselor
Department of Youth Authority
ACTION: Administrative Law Judge's proposed
decision rejected by Board. Board to decide case
itself.

LAWRENCE KILGORE, CASE NO. 04-1106
Appeal from dismissal
Correctional Lieutenant
California Institution for Men - Chino
Department of Corrections
ACTION: Dismissal revoked.

JOHN M. LEBECK, CASE NO. 04-1023
Appeal from five-percent reduction
in salary for six months
Correctional Officer
California State Prison – Sacramento
Department of Corrections
ACTION: Five-percent reduction in salary for six
months sustained.

RICARDO RODRIGUEZ, CASE NO. 04-0096E
Appeal of discrimination
Heavy Equipment Mechanic
California Men's Colony – San Luis Obispo
Department of Corrections
NO ACTION: The Board took the Proposed Decision
under submission to review at November 16, 2004
Board meeting.

MICHAEL STRAUTHER, CASE NO. 04-0005
Appeal from dismissal
Youth Correctional Officer
Department of Youth Authority
ACTION: Dismissal revoked.

ANTHONY VEGAS, Case No. 03-2204
Appeal from dismissal
Parole Agent I (Adult Parole)
Department of Corrections - Stockton
ACTION: Administrative Law Judge's proposed
decision rejected by Board. Board to decide case
itself.

JASON BETTINI, CASE NO. 04-0970 and
MARK MCNABB, CASE NO. 04-1026
Appeal from 15-working-days suspensions
CHP Officers
Department of California Highway Patrol
Listed on the October 19, 2004 Board Agenda.
ACTION: 15-working-days suspensions sustained.

SCOTT BOLLINGER, CASE NO. 04-0917
Appeal from ten-percent reduction in salary for twelve months
Correctional Counselor II (Specialist)
Sierra Conservation Center - Jamestown
Department of Corrections
Listed on the October 19, 2004 Board Agenda.
ACTION: Ten-percent reduction in salary for twelve months sustained.

JENNIFER CADY, CASE NO. 03-3390E
Appeal from denial of request for reasonable accommodation
Deputy Attorney General IV
Department of Justice
Listed on the October 19, 2004 Board Agenda.
ACTION: Administrative Law Judge's proposed decision rejected by Board. Board to decide case itself.

SHARON COHEN, CASE NO. 03-3389E
Appeal from denial of request for reasonable accommodation
Deputy Attorney General IV
Department of Justice
Listed on the October 19, 2004 Board Agenda.
ACTION: Administrative Law Judge's proposed decision rejected by Board. Board to decide case itself.

DON DOWLING, CASE NO. 04-1482 AND
ROGER HANSON, CASE NO. 04-1523
Appeals from dismissal
Police Officer I
Department of Developmental Services
Listed on the October 19, 2004 Board Agenda.
ACTION: Administrative Law Judge's proposed decision rejected by Board. Board to decide case itself.

PAUL HANSEN, CASE NO. 04-1188
Appeal from dismissal
Correctional Officer
Central California Women's Facility - Chowchilla
Department of Corrections
Listed on the October 19, 2004 Board Agenda.
ACTION: Dismissal sustained.

EVA JENSEN, CASE NO. 02-0518B
Appeal for determination of salary,
benefits and interest
Registered Nurse
Department of Mental Health
Listed on the October 19, 2004 Board Agenda.
ACTION: Appeal for determination of back salary,
benefits and interest denied.

MARK LOUGHLIN, CASE NO. 04-0646
Appeal from dismissal
Park Maintenance Worker I Department of Parks and
Recreation
Listed on the October 19, 2004 Board Agenda.
ACTION: Dismissal sustained.

RONALD O'BRIEN, CASE NO. 04-1296
Appeal from demotion
Senior Accounting Officer, Supervisor
Regional Accounting Office – Paso Robles
Department of Corrections
Listed on the October 19, 2004 Board Agenda.
ACTION: Demotion sustained.

ALVARO OCHOA, CASE NO. 04-0078
Appeal from dismissal
Officer
Department of California Highway Patrol
Listed on the October 19, 2004 Board Agenda.
ACTION: Dismissal sustained.

CALVIN ROBERTS, CASE NO. 04-0951
Appeal from demotion
Lieutenant
Department of the Youth Authority
Listed on the October 19, 2004 Board Agenda.
ACTION: Demotion modified to formal reprimand.

- Proposed Decisions Taken Under Submission
At Prior Meeting
These are ALJ proposed decisions taken under
submission at a prior Board meeting, for lack of
majority vote or other reason.
- Proposed Decisions After Board Remand

NONE

- Proposed Decisions After SPB Arbitration

LISA EIDE, CASE NO. 04-1642
Appeal from five-working-days suspension
California Highway Patrol Officer
Department of California Highway Patrol
Listed on the October 19, 2004 Board Agenda.
ACTION: Five-working-days suspension
revoked.

E. PETITIONS FOR REHEARING

- ALJ Proposed Decisions Adopted By The Board

The Board will vote to grant or deny a petition for rehearing filed by one or both parties, regarding a case already decided by the Board.

SEPHIA ANDERSON, CASE NO. 03-0630P
Appeal from dismissal
Office Assistant (Typing)
Department of Industrial Relations
ACTION: Petition for rehearing filed by
appellant denied.

SHARON BORREGGE, CASE NO. 01-2266P
Rejection during probationary period
Transportation Engineering Technician
Department of Transportation
ACTION: Petition for rehearing filed by
appellant denied.

CALVIN CAMPBELL III, CASE NO. 03-0626P
Appeal from 45-working-days suspension
Correctional Lieutenant
California State Prison - Lancaster
Department of Corrections
ACTION: Petition for rehearing filed by
appellant denied.

KALPANA DADABHOY, CASE NO. 02-3423P
Appeal from rejection during probation
Disability Evaluation Analyst
Department of Social Services
ACTION: Petition for rehearing filed by
appellant denied.

RAY MARTINEZ, CASE NO. 03-44AP
Appeal from dismissal
Correctional Officer
Department of Corrections
ACTION: Petition for rehearing filed by
appellant denied.

JUDITH BISHOP, CASE NO. 03-2462E
Appeal from discrimination and
denial of reasonable accommodation
in the examination for Management Services
Technician
Department of Corrections – Sacramento
Listed on the October 19, 2004 Board Agenda.
ACTION: Petition for rehearing filed by
respondent denied.

JACK BRON, CASE NO. 02-3688R
Appeal from Constructive Medical Termination
Youth Correctional Officer
Department of the Youth Authority
Listed on the October 19, 2004 Board Agenda.
ACTION: Petition for rehearing filed by
respondent denied.

NICHOLAS KEY, CASE NO. 04-0498
Appeal from dismissal
Correctional Officer
North Kern State Prison - Delano
Department of Corrections
Listed on the October 19, 2004 Board Agenda.
ACTION: Petition for rehearing filed by
respondent denied.

ERIC PEACOCK, CASE NO. 02-4023
Appeal from five-percent reduction
in salary for six months
Motor Vehicle Field Representative Range C
Department of Motor Vehicles
Listed on the October 19, 2004 Board Agenda.
ACTION: Petition for rehearing filed by appellant denied

- Whistleblower Notice of Findings
The Board will vote to grant or deny a petition for rehearing filed by one or both parties, regarding a Notice of Findings issued by the Executive Officer under Government Code, section 19682 et seq. and Title 2, California Code of Regulations, section 56 et seq.

NONE

F. PENDING BOARD REVIEW

These cases are pending preparation of transcripts, briefs, or the setting of oral argument before the Board.

DANNY BOYD, CASE NO. 03-1537A
Appeal from dismissal
Youth Correctional Officer
California Youth Authority – Chino
NO ACTION

NESSLIN CRUZ, CASE NO. 03-1824
Appeal from ten-work-day
suspension
Employment Program Representative
(Permanent Intermittent)
Employment Development Department
NO ACTION

PRISCILA CRUZ, CASE NO. 04-0554E
Appeal from discrimination complaint
Clinical Laboratory Scientist
California Medical Facility - Vacaville
Department of Corrections
NO ACTION

DOREATHA FLEMING, CASE NO. 03-2274
Appeal from dismissal
Motor Vehicle Field Representative
Department of Motor Vehicles
NO ACTION

JOHN FLORES, CASE NO. 03-2588E
Appeal of retaliation
Hospital Peace Officer I
Department of Mental Health
NO ACTION

RICHARD HARMON, CASE NO. 03-3739
Appeal from dismissal
Psychiatric Technician Assistant
Department of Developmental Services
NO ACTION

ROYCE HENSON, CASE NO. 02-3501E
Appeal from retaliation complaint
Staff Services Manager II (Supervisor)
Department of Forestry and Fire Protection
NO ACTION

HAJI JAMEEL, CASE NO. 04-0330
Appeal from dismissal
Supervising Transportation Engineer
California Public Utilities Commission
NO ACTION

EDWARD LIMON, CASE NO. 04-0233
Appeal from dismissal
Parole Agent I
Department of the Youth Authority
NO ACTION

VIRGINIA PARKER, CASE NO. 03-0325A
Appeal from demotion
Correctional Lieutenant
Ironwood State Prison – Blythe
Department of Corrections
NO ACTION

KIM RITTENHOUSE, CASE NOS. 03-3541A &
03-3542A
Appeal from denial of reasonable accommodation
And from constructive medical termination
Office Technician (General)
Department of Fish and Game
NO ACTION

SAMUEL SWEENEY, CASE NO. 04-0794
Appeal from 20-calendar-days suspension
Correctional Officer
California Institution for Men – Chico
Department of Corrections
NO ACTION

PEARLIE BLEDSOE-TOWNES, CASE NO. 03-2966A

Appeal from denial of request for reasonable
Accommodation
Correctional Sergeant
Central California Women's Facility – Chowchilla
Department of Corrections
NO ACTION

25. RESOLUTION EXTENDING TIME UNDER GOVERNMENT
CODE SECTION 18671.1 EXTENSION
(See Minutes Pages 38-39)

26. NON-EVIDENTIARY CASES
On November 3, 2004, the Board adopted by majority vote
(Elkins, Alvarado and Sheehan [Tom not present to
participate in vote]), the following decisions presented by
Laura Aguilera, Assistant Executive Officer, State Personnel
Board.

A. WITHHOLD APPEALS

WITHHOLD FROM CERTIFICATION CASES HEARD
BY A STAFF HEARING OFFICER

GENE KELLY JR., CASE NO. 03-2923

Classification: Correctional Officer

Department: Corrections

ACTION: DENIED

EARL BANNER, CASE NO. 03-2291

Classification: Cadet

Department: California Highway Patrol

Listed on the October 19, 2004 Board Agenda

ACTION: DENIED

VINCENT CHO, CASE NO. 03-3615

Classification: Cadet

Department: California Highway Patrol

Listed on the October 19, 2004 Board Agenda

ACTION: DENIED

WITHHOLD FROM CERTIFICATION CASES NOT
HEARD BY A STAFF HEARING OFFICER

TONY ALCARAZ, CASE NO. 03-2564

Classification: Correctional Officer

Department: Department of Corrections

ACTION: DENIED

SAMUEL ALCANTAR, 03-3401
Classification: Security Officer I (DOJ)
Department: Department of Justice
ACTION: DENIED

SCOTT HOBBERCHALK, CASE NO. 03-3475
Classification: Correctional Officer
Department: Department of Corrections
ACTION: DENIED

ROBERT NORVELL, CASE NO. 03-3613
Classification: Correctional Officer
Department: Corrections
ACTION: DENIED

LINDA CADANO, CASE NO. 03-3665
Classification: Correctional Officer
Department: Corrections
Listed on the October 19, 2004 Board Agenda
ACTION: DENIED

NELSON CHAVEZ, CASE NO. 03-2914
Classification: Correctional Officer
Department: Corrections
Listed on the October 19, 2004 Board Agenda
ACTION: DENIED

EDWARD CROAKER, CASE NO. 03-2561
Classification: Correctional Officer
Department: Corrections
Listed on the October 19, 2004 Board Agenda
ACTION: DENIED

THOMAS DARBY, CASE NO. 03-2920
Classification: Correctional Officer
Department: Corrections
Listed on the October 19, 2004 Board Agenda
ACTION: DENIED

RICHARD DELGADO, CASE NO. 03-3637
Classification: Correctional Officer
Department: Corrections
Listed on the October 19, 2004 Board Agenda
ACTION: DENIED

MANUEL DE SANTIAGO, CASE NO. 03-3395

Classification: Cadet
Department: California Highway Patrol
Listed on the October 19, 2004 Board Agenda
ACTION: DENIED

EDWARD DUDLEY-ROBEY, CASE NO. 03-2918
Classification: Medical Technical Assistant
Department: Corrections
Listed on the October 19, 2004 Board Agenda
ACTION: DENIED

RICHARD FIGUEROA, CASE NO. 03-3653
Classification: Correctional Officer
Department: Corrections
Listed on the October 19, 2004 Board Agenda
ACTION: DENIED

MATHEW FOSDICK, CASE NO. 03-3559
Classification: Cadet, CHP
Department: California Highway Patrol
Listed on the October 19, 2004 Board Agenda
ACTION: DENIED

ASHLEY GATES, CASE NO. 03-3790
Classification: Public Safety Dispatcher III
Department: California Highway Patrol
Listed on the October 19, 2004 Board Agenda
ACTION: DENIED

GARY HACKER, CASE NO. 03-3479
Classification: Hospital Police Officer (HPO)
Department: Mental Health
Listed on the October 19, 2004 Board Agenda
ACTION: DENIED

DAVID HART, CASE NO. 03-2933
Classification: Medical Technician Assistant
Department: Corrections
Listed on the October 19, 2004 Board Agenda
ACTION: DENIED

ALVIE HERNANDEZ, CASE NO. 03-2308
Classification: Correctional Officer
Department: Corrections
Listed on the October 19, 2004 Board Agenda
ACTION: DENIED

KEN HOLMES, CASE NO. 03-2765

Classification: Correctional Officer
Department: Corrections
Listed on the October 19, 2004 Board Agenda
ACTION: DENIED

DEVON JACKSON, CASE NO. 03-2932
Classification: Correctional Officer
Department: Corrections
Listed on the October 19, 2004 Board Agenda
ACTION: DENIED

VINCENT KEZMAN, CASE NO. 03-3774
Classification: Correctional Officer
Department: Corrections
Listed on the October 19, 2004 Board Agenda
ACTION: DENIED

EUGENE KUNSTMANN, CASE NO. 03-2926
Classification: Correctional Officer
Department: Corrections
Listed on the October 19, 2004 Board Agenda
ACTION: Retracted from agenda by State Personnel Board staff. Not for Board consideration.

ANDY LAM, CASE NO. 03-2682
Classification: Correctional Officer
Department: Corrections
Listed on the October 19, 2004 Board Agenda
ACTION: DENIED

STACEY LEE, CASE NO. 03-3551
Classification: Correctional Officer
Department: Corrections
Listed on the October 19, 2004 Board Agenda
ACTION: GRANTED

LYNN LENELL, CASE NOS. 03-1524 AND 03-1525
Classification: Fire Apparatus Engineer
Department: State Personnel Board and Department of Forestry and Fire Protection
Listed on the October 19, 2004 Board Agenda.
ACTION: DENIED

JULIE LOPEZ, CASE NO. 03-3538

Classification: Correctional Officer
Department: California Department of Corrections
Listed on the October 19, 2004 Board Agenda
ACTION: DENIED

BOBBY LYLES, CASE NO. 03-2767
Classification: Correctional Officer
Department: Corrections
Listed on the October 19, 2004 Board Agenda
ACTION: DENIED

MICHAEL MARTIN, CASE NO. 03-3539
Classification: Correctional Officer
Department: Corrections
Listed on the October 19, 2004 Board Agenda
ACTION: DENIED

RICHARD MCCUEN, CASE NO. 03-3426
Classification: Correctional Officer
Department: Corrections
Listed on the October 19, 2004 Board Agenda
ACTION: DENIED

DANAMARIE MYERS, CASE NO. 03-3437
Classification: Medical Technical Assistant (MTA)
Department: Corrections
Listed on the October 19, 2004 Board Agenda
ACTION: DENIED

GREGORY NEWFIELD, CASE NO. 03-2931
Classification: CHP, Cadet
Department: California Highway Patrol
Listed on the October 19, 2004 Board Agenda
ACTION: DENIED

CODY OVIATT, CASE NO. 03-2939
Classification: Correctional Officer
Department: Corrections
Listed on the October 19, 2004 Board Agenda
ACTION: DENIED

ANTHONY PARHAM, CASE NO. 03-3054
Classification: Correctional Officer
Department: Corrections
Listed on the October 19, 2004 Board Agenda
ACTION: GRANTED

ALEJANDRO QUEZADA, CASE NO. 03-2737

Classification: Correctional Officer
Department: Corrections
Listed on the October 19, 2004 Board Agenda
ACTION: DENIED

MIGUEL SERRATO, CASE NO. 03-2210
Classification: Youth Correctional Officer
Department: California Youth Authority
Listed on the October 19, 2004 Board Agenda
ACTION: DENIED

ANEESAH SHELBOURNE, CASE NO. 03-2738
Classification: Correctional Officer
Department: Corrections
Listed on the October 19, 2004 Board Agenda
ACTION: DENIED

RICHARD STEFFEY, CASE NO. 03-2736
Classification: Correctional Officer
Department: Corrections
Listed on the October 19, 2004 Board Agenda
ACTION: DENIED

CHARLES THOMAS, 03-2610
Classification: Correctional Officer
Department: Corrections
Listed on the October 19, 2004 Board Agenda
ACTION: DENIED

NATASHA THOMPSON, CASE NO. 03-2981
Classification: Correctional Officer
Department: Corrections
Listed on the October 19, 2004 Board Agenda
ACTION: DENIED

JAMAL TUCKER, CASE NO. 03-2418
Classification: Correctional Officer
Department: Corrections
Listed on the October 19, 2004 Board Agenda
ACTION: DENIED

EDWIN TURNER, CASE NO. 03-2980
Classification: Youth Correctional Officer
Listed on the October 19, 2004 Board Agenda
ACTION: DENIED

JAMES WEBB, CASE NO. 03-2213

Classification: Correctional Officer
Department: Corrections
Listed on the October 19, 2004 Board Agenda
ACTION: DENIED

TERRANCE WRIGHT, CASE NO. 03-3522
Classification: Correctional Officer
Department: Corrections
Listed on the October 19, 2004 Board Agenda
ACTION: DENIED

- B. MEDICAL AND PSYCHOLOGICAL SCREENING APPEALS - NONE
- C. EXAMINATION APPEALS - NONE
MINIMUM QUALIFICATIONS - NONE
MERIT ISSUE COMPLAINTS

(Merit Issue Case)

LYNNELLE CASE, CASE NO. 02-0357
Classification: Staff Services Analyst (SSA)
Department: Consumer Affairs
ACTION: DENIED

- D. RULE 212 OUT-OF-CLASS APPEALS - NONE
VOIDED APPOINTMENT APPEALS - NONE
RULE 211 APPEALS - NONE
- E. REQUEST TO FILE CHARGES CASES
PETITIONS FOR REHEARING CASES - NONE

(Request To File Charges Cases)

ANDREW BANKS, CASE NO. 03-3806
Classification: Correctional Officer
Department: Corrections
ACTION: DENIED

DON HANSEN, CASE NO. 04-0814
Classification: Transportation Engineer (Civil),
Department: Transportation
ACTION: DENIED

GERALD JOHANNES, CASE NO. 03-2678
Classification: Committed offender housed at ASH
Department: Mental Health
ACTION: DENIED

LAWRENCE RAEL, CASE NO. 03-1781
Classification: Committed offender housed at ASH
Department: Mental Health
ACTION: DENIED

BOBBIE SUTER, CASE NO. 03-1670
Classification: Civilly committed patient at
Atascadero State Hospital
Department: Mental Health
ACTION: DENIED

ANTHONY WEATHINGTON, CASE NO. 03-2852
Classification: A civilly committed offender at
Atascadero State Hospital.
Department: Mental Health
ACTION: DENIED

- F. PSYCHOLOGICAL SCREENING CASES -
Cases reviewed by Appeals Division staff, but no
hearing was held. It is anticipated that the Board will
act on these proposals without a hearing.

PAUL GONZALES, CASE NO. 04-1365
Classification: Correctional Officer
Department: Corrections
Listed on the October 19, 2004 Board Agenda
ACTION: GRANTED

DARREN MCDOWELL, CASE NO. 04-2074
Classification: Youth Correctional Officer
Department: Youth Authority
Listed on the October 19, 2004 Board Agenda
ACTION: GRANTED

NICHOLAS VARNES, CASE NO. 04-1228
Classification: Correctional Officer
Department: Corrections
Listed on the October 19, 2004 Board Agenda
ACTION: GRANTED

PRISCILLA WHALEY, CASE NO. 04-2010
Classification: Medical Technical Assistant
Department: Corrections
Listed on the October 19, 2004 Board Agenda.
ACTION: GRANTED

EVELYN WILLIAMS, CASE NO. 04-2011
Classification: Correctional Officer
Department: Corrections
Listed on the October 19, 2004 Board Agenda
ACTION: GRANTED

27. NON-HEARING CALENDAR

The following proposals are made to the State Personnel Board by either the Board staff or Department of Personnel Administration staff. It is anticipated that the Board will act on these proposals without a hearing.

Anyone with concerns or opposition to any of these proposals should submit a written notice to the Executive Officer clearly stating the nature of the concern or opposition.

Such notice should explain how the issue in dispute is a merit employment matter within the Board's scope of authority as set forth in the State Civil Service Act (Government Code Section 18500 et seq.) and Article VII, California Constitution. Matters within the Board's scope of authority include, but are not limited to, personnel selection, employee status, discrimination and affirmative action. Matters outside the Board's scope of authority include, but are not limited to, compensation, employee benefits, position allocation, and organization structure. Such notice must be received not later than close of business on the Wednesday before the Board meeting at which the proposal is scheduled. Such notice from an exclusive bargaining representative will not be entertained after this deadline, provided the representative has received advance notice of the classification proposal pursuant to the applicable memorandum of understanding. In investigating matters outlined above, the Executive Officer shall act as the Board's authorized representative and recommend the Board either act on the proposals as submitted without a hearing or schedule the items for a hearing, including a staff recommendation on resolution of the merit issues in dispute.

A. FISH AND GAME WARDEN SERIES

The Department of Fish and Game (DFG) is proposing the following revisions to the Fish and Game Warden series specification: the class titles are being revised for consistency; revisions to the class specification to incorporate and update new laws regarding domestic violence and prior use of hard drugs by the applicant; revise the Minimum Qualifications to add a pattern whereby current peace officers can enter the class and obtain the necessary training to perform the duties of a law enforcement officer; abolishing the classes of Lieutenant, Fish and Game Patrol Board and Captain, Fish and Game Patrol Boat.

ACTION: Adopted on November 3, 2004

VOTE: Elkins, Alvarado, Sheehan (Tom not present to participate in vote) – Aye.

INVESTMENT OFFICER, RETIREMENT SYSTEM SERIES

The California Public Employees' Retirement System proposes the following re-title of, and revision to, the classes within the Investment Officer, Retirement System class series: establishment of a new class entitled Investment Officer III, Public Employees' Retirement System with a 12-month probationary period; consolidation of the Assistant Investment Officer, Retirement Systems, the Investment Officer I, Retirement Systems and the Mortgage Investment Specialist I classes into one deep class; reallocation of incumbents in the Assistant Investment Officer, Retirement Systems and Mortgage Investment Specialist I and II classes; establish Alternative Range Criteria 442; abolishment of the Assistant Investment Officer, Retirement Systems, and the Mortgage Investment Specialist I and II, and Mortgage Investment Officer classes; establishment of a Footnote 24 in the Principal Investment Officer classification; and change in the probationary period from six months to 12-months for the classes entitled Investment Officer I and II, Public Employees' Retirement System.

Listed on the October 19, 2004 Board Agenda

ACTION: Adopted on November 3, 2004

VOTE: Elkins, Alvarado, Sheehan (Tom not present to participate in vote) – Aye.

28. STAFF CALENDAR ITEMS FOR BOARD INFORMATION

Staff has approved the following:

- A. The Department of Corrections proposes revisions to the Supervising Registered Nurse II, Correctional Facility classification including: the additional Minimum Qualifications pattern; an additional level to the Supervising Registered Nurse II, Correctional Facility; and minor updates to the language utilized in the Knowledge and Abilities section.

ACTION: Noted

The California Department of Forestry and Fire Protection requests that an employee of the Jamestown Fire Protection District be transferred into State civil service.

Listed on the October 19, 2004 Board Agenda

ACTION: Noted

29. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY

This section of the Agenda serves to inform interested individuals and departments of proposed and approved CEA position actions.

The first section lists position actions that have been proposed and are currently under consideration.

Any parties having concerns with the merits of a proposed CEA position action should submit their concerns in writing to the Classification and Compensation Division of the Department of Personnel Administration, the Personnel Resources and Innovation Division of the State Personnel Board, and the department proposing the action.

To assure adequate time to consider objections to a CEA position action, issues should be presented immediately upon receipt of the State Personnel Board Agenda in which the proposed position action is noticed as being under consideration, and generally no later than a week to ten days after its publication.

In cases where a merit issue has been raised regarding a proposed CEA position action and the dispute cannot be resolved, a hearing before the five-member Board may be scheduled. If no merit issues are raised regarding a proposed CEA position action, and it is approved by the State Personnel Board, the action becomes effective without further action by the Board.

The second section of this portion of the Agenda reports those position actions that have been approved. They are effective as of the date they were approved by the Executive Officer of the State Personnel Board.

A. REQUESTS TO ESTABLISH NEW CEA POSITIONS
CURRENTLY UNDER CONSIDERATION

(1) STATE GEOLOGIST, ASSISTANT DIRECTOR,
CALIFORNIA GEOLOGICAL SURVEY

The Department of Conservation proposes to allocate the above position to the CEA category. The State Geologist, Assistant Director, California Geological Survey will develop, recommend and ensure the proper implementation of all new and existing earth science related policies and procedures.

(2) ASSISTANT PROGRAM BUDGET MANAGER,
CORRECTIONS/GENERAL GOVERNMENT
UNIT

The Department of Finance proposes to allocate the above position to the CEA category. The Assistant Program Budget Manager, Corrections/General Government Unit is responsible for providing leadership and policy direction, and has authority over programs concerning the judicial council, justice, general government, corrections, and youth and adult correctional agency.

(3) PROJECT MANAGER, PRISON LAW OFFICE
REMEDIAL PLAN IMPLEMENTATION
PROJECT

The California Youth Authority proposes to allocate the above position to the CEA category. The Project Manager, Prison Law Officer Remedial Plan Implementation Project will be responsible for providing direction and leadership to work groups assigned to review current departmental policies, procedures, and programs in response to the allegations in the Farrell vs. Allen lawsuit.

- (4) DEPUTY DIRECTOR, ASSET MANAGEMENT
The California Housing Finance Agency proposes to allocate the above position to the CEA category. The Deputy Director, Asset Management is the primary advisor on all asset management policy issues which have an impact on all Agency borrowers and clients throughout California.
- (5) ASSISTANT DEPUTY DIRECTOR, MEDICAL CARE SERVICES
The California Department of Health Services proposes to allocate the above position to the CEA category. The Assistant Deputy Director, Medical Care Services is responsible for assisting in the development, promotion and implementation of health care delivery systems to 6.7 million beneficiaries of the State Medi-Cal program.
- (6) DEPUTY DIRECTOR, PUBLIC SAFETY AND BUSINESS OPERATIONS
The Department of Water Resources proposes to allocate the above position to the CEA category. The Deputy Director, Public Safety and Business Operations, is the principal policymaker in all public safety and business operations issues for the Department of Water Resources.
Listed on the October 19, 2004 Board Agenda
- (7) DEPUTY DIRECTOR, HIGH SPEED RAIL AUTHORITY
The California Highway Patrol on behalf of the California High Speed Rail Authority proposes to allocate the above position to the CEA category. The Deputy Director, High Speed Rail Authority, is a technical advisor to the Authority and plays a significant role in formulating the Authority's goals, objectives and policies.
Listed on the October 19, 2004 Board Agenda

(8) DEPUTY DIRECTOR, ADMINISTRATION
The California Science Center proposes to allocate the above position to the CEA category. The Deputy Director, Administration's responsibilities include formulating and implementing the Science Center's administrative services, programs, policies and procedures. Listed on the October 19, 2004 Board Agenda

(9) DEPUTY DIRECTOR, EXHIBIT DEVELOPMENT
The California Science Center proposes to allocate the above position to the CEA category. The Deputy Director, Exhibit Development, is responsible for establishing policy relating to the education and scientific content of all exhibit development. Listed on the October 19, 2004 Board Agenda

B. EXECUTIVE OFFICER DECISIONS REGARDING
REQUESTS TO ESTABLISH NEW CEA POSITIONS

(1) DEPUTY DIRECTOR, OFFICE OF APPLIED
RESEARCH AND ANALYSIS
The Department of Alcohol and Drug Program's request to allocate the above position has been disapproved effective September 28, 2004.

(2) DIRECTOR OF PLANNING, RESEARCH &
EMERGENCY SERVICES
The Governor's Office of Emergency Services' request to allocate the above position on behalf of the Office of Homeland Security has been approved effective October 1, 2004.

(3) DIRECTOR OF CRITICAL INFRASTRUCTURE
PROTECTION
The Governor's Office of Emergency Services' request to allocate the above position on behalf of the Office of Homeland Security has been approved effective October 1, 2004.

(4) DIRECTOR OF LOCAL EXTERNAL AND
LEGISLATIVE AFFAIRS
The Governor's Office of Emergency Services' request to allocate the above position on behalf of the Office of Homeland Security has been approved effective October 1, 2004.

- (5) DEPUTY SECRETARY, LABOR RELATIONS
The Youth and Adult Correctional Agency's request to allocate the above position has been approved effective October 7, 2004.
- (6) CHIEF, OFFICE OF EXAMINATION RESOURCES
The Department of Consumer Affairs request to allocate the above position has been disapproved effective October 8, 2004.
- (7) SPECIAL ASSISTANT, LEGAL AFFAIRS
The Department of Justice's request to allocate the above position has been disapproved effective October 12, 2004.
- (8) ASSISTANT DEPUTY COMMISSIONER, OFFICE OF COMMUNICATIONS
The Department of Insurance's request to allocate the above position has been disapproved effective October 12, 2004.
- (9) LEGISLATIVE DIRECTOR, ADMINISTRATION
The Department of Insurance's request to allocate the above position has been disapproved effective September 13, 2004.
- (10) SPECIAL COUNSEL TO THE COMMISSIONER
The Department of Insurance's request to allocate the above position has been disapproved effective September 13, 2004.
- (11) CHIEF, COMPLIANCE OFFICER, OFFICE OF ENTERPRISE COMPLIANCE
The California Public Employees' Retirement System's request to allocate the above position has been approved effective September 10, 2004.
- (12) DIVISION CHIEF, OPERATIONS
The Department of General Services' request on behalf of the Division of State Architect has been approved effective September 10, 2004.
Listed on the October 19, 2004 Board Agenda

(13) PROGRAM MANAGER, STRATEGIC
SOURCING PROGRAM

The Department of General Services' request to allocate the above position has been approved effective September 10, 2004 for a two-year period.

Listed on the October 19, 2004 Board Agenda

(14) SENIOR ALTERNATIVE ENERGY ADVISOR

The Air Resources Board's request to allocate the above position has been approved effective September 10, 2004, for a two-year period.

Listed on the October 19, 2004 Board Agenda

ACTION: Noted

30. WRITTEN STAFF REPORT FOR BOARD INFORMATION

NONE

31. PRESENTATION OF EMERGENCY ITEMS AS
NECESSARY

NONE

A D J O U R N M E N T

SUBMITTED

1. TEACHER STATE HOSPITAL (SEVERELY), ETC. Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002)

NO ACTION

2. VOCATIONAL INSTRUCTOR (SAFETY)(VARIOUS SPECIALTIES). Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002)

NO ACTION

3. TELEVISION SPECIALIST (SAFETY)
The Department of Corrections proposes to establish the new classification Television Specialist (Safety) by using the existing Television Specialist class specification and adding “Safety” as a parenthetical to recognize the public aspect of their job, additional language will be added to the Typical Tasks section of the class specification and a Special Physical Characteristics section will be added. (Presented to Board March 4, 2003)

NO ACTION

4. HEARING - PSC #04-03
Appeal of the California State Employees Association from the Executive Officer's April 15, 2004, Approval of Master Contracts between the California Department of Corrections and Staffing Solutions, CliniStaff, Inc., Staff USA, Inc., CareerStaff Unlimited, MSI International, Inc., Access Medical Staffing & Service, Drug Consultants, Infinity Quality Services Corporation, Licensed Medical Staffing, Inc., Morgan Management Services, Inc., Asereth Medical Services, and PrideStaff dba Rx Relief. (Hearing held August 12, 2004)

NO ACTION

5. HEARING –Proposed new and revised State Personnel Board Regulations effecting equal opportunity, discrimination complaints and reasonable accommodation policies and procedures. (Hearing held July 7, 2004)

NO ACTION

SUBMITTED (continued)

6. HEARING - ELIGIBILITY OF DISMISSED STATE EMPLOYEES TO TAKE
EXAMINATIONS

State Personnel Board staff is proposing to amend Rule § 211, to comply with
Assembly Bill (AB) 577, Statutes of 2003, Chapter 836, which enacted Government
Code § 18941. (Hearing held November 3, 2004)

NO ACTION

NOTICE OF GOVERNMENT CODE § 18671.1 RESOLUTION

Since Government Code section 18671.1 requires that cases pending before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional 45 days, the Board hereby publishes its substantial reasons for the need for the 45-day extension for some of the cases now pending before it for decision.

An additional 45 days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than six months as of the date of the Board meeting.

GOVERNMENT CODE § 18671.1 RESOLUTION

WHEREAS, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

WHEREAS, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

WHEREAS, the Agenda for the instant Board meeting included an item titled "Notice of Government Code § 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

WHEREAS, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

* * * * *

I hereby certify that the State Personnel Board made and adopted the preceding resolution at its meeting on November 3, 2004.

VOTE: Elkins, Alvarado, Sheehan (Tom not present to participate in vote) – Aye.

FLOYD SHIMOMURA
Executive Officer
California State Personnel Board